

SUPREME COURT OF ARKANSAS

IN RE RULES OF PROCEDURE OF
THE ARKANSAS JUDICIAL
DISCIPLINE AND DISABILITY
COMMISSION

Opinion Delivered February 3, 2011

PER CURIAM

In 2008, we amended the Rules of Procedure of the Arkansas Judicial Discipline and Disability Commission. *See In re Adoption of Amendments to Rules of Procedure of the Ark. Judicial Discipline and Disability Commission*, 373 Ark. App'x 613 (2008) (per curiam). These revised procedures have been in place for several years, and with the benefit of experience, the Commission has proposed amendments to Rule 12 to implement procedures to be followed by the parties after the Commission's report has been filed with the supreme court. The changes are illustrated in the End Note.

We adopt the amendments to Rule 12 of the Rules of Procedure of the Arkansas Judicial Discipline and Disability Commission and republish this rule, effective March 1, 2011, as set out below.

**RULES OF PROCEDURE OF THE
ARKANSAS JUDICIAL DISCIPLINE AND DISABILITY COMMISSION**

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Rule 12. Supreme court review.

A. *Filing and Service.* The Executive Director of the Commission shall prepare the record consisting of the transcript of the proceedings, exhibits, and all pleadings, and the Chair of the Commission shall certify the record prepared by the Executive Director. The Commission shall file the record and the Commission's report, findings, and recommendations with the Supreme Court no later than 30 days after the filing made under Rule 9(L) and shall serve copies of its report, findings, and recommendations upon the judge. On application by the Commission, the court may direct the withholding of a recommendation regarding discipline pending the determination of other specified matters.

B. *Prompt Court Consideration.* The Clerk of the Supreme Court shall docket any Commission matter for expedited consideration.

C. *Objection and Appeal.* Within twenty days of service of the Commission's report, findings, and recommendations, the judge may appeal the findings and recommendations to the Supreme Court by filing a notice of appeal with the Clerk of the Supreme Court with a copy to the Executive Director of the Commission. The notice of appeal shall designate the findings and recommendations of the Commission from which appeal is sought. The appeal shall be processed in accord with the Rules of the Supreme Court and Court of Appeals for civil matters with the judge the appellant and the Commission the appellee. The judge shall file the appellant's brief with the Supreme Court within thirty days of the filing of the notice of appeal.

D. *Report not contested.* If the judge does not challenge or object to the Commission's report, finding, and recommendations, the Supreme Court shall review the record and Commission's report, findings, and recommendations and make a decision pursuant to subsection G of this rule. No briefs are filed.

E. *Supplementation.* If the court desires an expansion of the record or additional findings, either with respect to the recommendation for discipline or sanction to be imposed, it shall remand the case to the Commission for the appropriate directions, retaining jurisdiction, and shall withhold action pending receipt of the additional filing. The Supreme Court may order additional filings or oral argument as to the entire case or specified issues. The Supreme Court

may accept or solicit supplementary filings with respect to medical or other information without remand and prior to an imposition of discipline provided that the parties have notice and an opportunity to be heard thereon.

F. *Scope of Discipline.* The Supreme Court, when considering removal of a judge, shall determine whether discipline as a lawyer also is warranted. If removal is deemed appropriate, the court shall notify the judge, the Commission and the Supreme Court Committee on Professional Conduct and give each an opportunity to be heard on the issue of the imposition of lawyer discipline.

G. *Decision.* Based upon a review of the entire record, the Supreme Court shall file a written opinion and judgment directing such disciplinary action as it finds just and proper. It may accept, reject, or modify in whole or in part, the findings and recommendation of the Commission. In the event that more than one recommendation for discipline for the judge is filed, the court may render a single decision or impose a single sanction with respect to all recommendations. The court may direct that no motion for rehearing will be entertained, in which event its decision shall be final upon filing. If the court does not so direct, the respondent may file a motion for rehearing within fifteen (15) days of the filing of the decision.

H. *Certiorari.* The Supreme Court may bring up for review any action taken upon any complaint filed with the Commission, and may also bring up for review a case in which the Commission has failed to act.

END NOTE

Rule 12. Supreme court review.

A. *Filing and Service.* The Executive Director of the Commission shall prepare the record consisting of the transcript of the proceedings, exhibits, and all pleadings, and the Chair of the Commission shall certify the record prepared by the Executive Director. The Commission shall file the record and the Commission's report, ~~record~~, findings, and recommendations with the Supreme Court no later than 30 days after the filing made under Rule 9(L) and shall serve copies of its report, findings, and recommendations upon the judge, no later than thirty (30) days after the report of the fact-finder is submitted. On application by the Commission, the court may direct the withholding of a recommendation regarding discipline pending the determination of other specified matters.

B. *Prompt Court Consideration.* The Clerk of the Supreme Court shall docket any Commission matter for expedited consideration.

C. Objection and Appeal. Within twenty days of service of the Commission's report, findings, and recommendations, the judge may appeal the findings and recommendations to the Supreme Court by filing a notice of appeal with the Clerk of the Supreme Court with a copy to the Executive Director of the Commission. The notice of appeal shall designate the findings and recommendations of the Commission from which appeal is sought. The appeal shall be processed in accord with the Rules of the Supreme Court and Court of Appeals for civil matters with the judge as the appellant and the Commission as the appellee. The judge shall file the appellant's brief with the Supreme Court within thirty days of the filing of the notice of appeal.

~~C. Brief and Supplementary Filings.~~ The Commission and the judge shall file with the Supreme Court briefs in accordance with court rules within twenty (20) days of the filing and service of the Commission report. No responsive briefs shall be filed unless requested by the court.

D. Report not contested. If the judge does not challenge or object to the Commission's report, finding, and recommendations, the Supreme Court shall review the record and Commission's report, findings, and recommendations and make a decision pursuant to subsection G of this rule. No briefs are filed.

E. Supplementation. If the court desires an expansion of the record or additional findings, either with respect to the recommendation for discipline or sanction to be imposed, it shall remand the case to the Commission for the appropriate directions, retaining jurisdiction, and shall withhold action pending receipt of the additional filing. The Supreme Court may order additional filings or oral argument as to the entire case or specified issues. The Supreme Court may accept or solicit supplementary filings with respect to medical or other information without remand and prior to an imposition of discipline provided that the parties have notice and an opportunity to be heard thereon.

F. ~~D.~~ Scope of Discipline. The Supreme Court, when considering removal of a judge, shall determine whether discipline as a lawyer also is warranted. If removal is deemed appropriate, the court shall notify the judge, the Commission and the Supreme Court Committee on Professional Conduct and give each an opportunity to be heard on the issue of the imposition of lawyer discipline.

G. ~~E.~~ Decision. Based upon a review of the entire record, the Supreme Court shall file a written opinion and judgment directing such disciplinary action as it finds just and proper. It may accept, reject, or modify in whole or in part, the findings and recommendation of the Commission. In the event that more than one recommendation for discipline for the judge is filed, the court may render a single decision or impose a single sanction with respect to all recommendations. The court may direct that no motion for rehearing will be entertained, in

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which event its decision shall be final upon filing. If the court does not so direct, the respondent may file a motion for rehearing within fifteen (15) days of the filing of the decision.

H. F. Certiorari. The Supreme Court may bring up for review any action taken upon any complaint filed with the Commission, and may also bring up for review a case in which the Commission has failed to act.